

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE KRAFT HEINZ SECURITIES
LITIGATION

Case No. 1:19-cv-01339

Judge Robert M. Dow, Jr.

RICHARD MERRITTS, derivatively on behalf
of THE KRAFT HEINZ COMPANY,

Case No. 1:20-cv-02071

Judge Robert M. Dow, Jr.

Plaintiff,

vs.

3G CAPITAL, INC. et al.,

Defendants,

and

THE KRAFT HEINZ COMPANY,

Nominal Defendant.

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DALE WATERS, Derivatively on Behalf of
Nominal Defendant THE KRAFT HEINZ
COMPANY,

Plaintiff,

vs.

ALEXANDRE BEHRING, et al.,

Defendants,

and

THE KRAFT HEINZ COMPANY,

Nominal Defendant.

Case No. 1:20-cv-02072

Judge Robert M. Dow, Jr.

In re KRAFT HEINZ SHAREHOLDER
DERIVATIVE LITIGATION

Case No. 1:20-cv-02259

Judge Robert M. Dow, Jr.

STEVEN HILL, Derivatively on Behalf of THE
KRAFT HEINZ COMPANY,

Plaintiff,

vs.

GREGORY E. ABEL, et al.,

Defendants,

and

THE KRAFT HEINZ COMPANY,

Nominal Defendant.

Case No. 1:20-cv-02280

Judge Robert M. Dow, Jr.

NOTICE REGARDING UPCOMING STATUS CONFERENCE

Defendants Alexandre Behring, John Cahill, Gregory Abel, Tracy Britt Cool, Feroz Dewan, Jeanne Jackson, Jorge Paulo Lemann, John Pope, Marcel Herrmann Telles, Alexandre Van Damme, George Zoghbi, Mackey McDonald, Bernardo Hees, Paulo Basilio, David Knopf, Christopher Skinger, Vince Garlati and Nominal Defendant The Kraft Heinz Company (“Kraft Heinz”) (together, the “Defendants”) respectfully submit this notice to inform the Court of certain relevant facts in advance of the status conference scheduled for Wednesday, October 6, 2021. *See* No. 19-cv-01339, Dkt. 316.

Kraft Heinz and certain of the individual defendants have moved to dismiss a consolidated stockholder derivative action pending in the Delaware Court of Chancery that challenges substantially the same underlying alleged misconduct as the derivative actions that have been filed in and transferred to this Court. *See In re The Kraft Heinz Company Derivative Litigation*, C.A. No. 2019-0587-LWW (Del. Ch.). Among other grounds, the pending motion asserts that the stockholder plaintiffs lack standing because they did not plead with particularity that their failure to make a pre-suit litigation demand on Kraft Heinz’s board before filing suit should be excused as futile under substantive Delaware law and Court of Chancery Rule 23.1. Because federal courts look to the substantive law of the nominal defendant’s state of incorporation (here, Delaware) in federal derivative actions, the issue of demand futility is also a threshold issue that applies to all of the derivative actions pending here. That motion is fully briefed and submitted for decision, which is expected in the near future. We are providing this submission for informational purposes and look forward to further discussing the implications of the Delaware case at the status conference tomorrow.

Dated: October 5, 2021

Respectfully submitted,

**PAUL, WEISS, RIFKIND, WHARTON &
GARRISON LLP**

By: /s/ Daniel J. Kramer

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McDonald, Bernardo Hees, Paulo Babilio, David
Knopf, Christopher Skinger, Vince Garlati and
Nominal Defendant The Kraft Heinz Company*

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2021, I caused the foregoing Notice Regarding Upcoming Status Conference to be filed with the Clerk of the Court through the CM/ECF system, which will automatically send notification of the filing to all counsel of record.

/s/ Daniel J. Kramer

Daniel J. Kramer